

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of the Cable)
Television Consumer Protection)
and Competition Act of 1992)

MM Docket No. 92-260
FCC 95-503

Cable Home Wiring)

DOCKET FILE COPY ORIGINAL

COMMENTS OF AMERITECH NEW MEDIA, INC.

I.

INTRODUCTION AND SUMMARY

Ameritech New Media, Inc. offers the following initial comments with respect to the issues raised in the Commission's Further Notice of Proposed Rulemaking ("Further NPRM") released in this docket on January 26, 1996.¹

¹ Coincident with the issuance of the Further NPRM in this proceeding, the Commission issued a Notice of Proposed Rulemaking soliciting comments on changes the Commission proposes in its telephone and cable premises wiring rules and policies in light of today's evolving and converging telecommunications marketplace. In the Matter of Telecommunications Services Inside Wiring, Customer Premises Equipment, Notice of Proposed Rulemaking, CS Docket No. 95-184, FCC 95-504, rel. January 26, 1996. Ameritech has filed comments as a separate pleading in that docket.

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In the Further NPRM, the Commission solicits comments on issues in two areas. The first has to do with multiple dwelling unit ("MDU") buildings² with loop-through wiring.³ The second has to do with the rights of others, besides the subscriber and the cable operator, to cable home wiring.

As the Commission addresses the issues raised in the Further NPRM, it should seek solutions which increase competition among multichannel video service providers, and customer choice with respect to that service, to the maximum extent possible. The application of that principle in this docket suggests the following outcomes:

For MDU Buildings with Loop-Through Wiring

- * The owner of a building with loop-through wiring, or a tenant association, should be given increased options to purchase that wiring;
- * an MDU owner purchases the wiring, the rules for compensation and technical standards for non-loop-through wiring should apply;

² A multiple dwelling unit building is just that, to-wit: a building containing more than one dwelling unit. This building could be, for example, a high or low-rise structure with apartments, condominiums, or co-operative units.

³ As the Commission noted, "[a] loop-through configuration is one in which a single cable provides service to a group of subscribers by being strung from one subscriber's unit to the next subscriber's unit in the same building." Further NPRM at 26. In a non-loop-through configuration, "each subscriber has a dedicated line extending from a trunk or feeder line to the individual's premises." *Id.*

- * the general rule for the demarcation point for MDUs with loop-through wiring should be no more than approximately 12 inches from the point of entry to the building (inside or outside) the building or the closest practical point to the point of entry, provided that the point is reasonably accessible to competing providers; and
- * future installations of loop-through wiring for MDU buildings should be prohibited.

Regarding Others' Rights to Cable Home Wiring

- * Owners of MDUs and tenant associations should be able to purchase wiring under the Commission's cable home wiring rules;
- * owners of MDUs with loop-through wiring should be given the opportunity to purchase such wiring upon voluntary termination of the cable service;
- * the Commission's cable wiring rules should not be impacted simply because the subscriber vacates the premises after declining to purchase the cable home wire; and
- * where a tenant declines to purchase the cable home wire, the premises owner should have the right to make that purchase.

Rules embodying these results would be reasonable for the reasons explained below.

II.

THE PRESENCE OF LOOP-THROUGH WIRING IN MDUs LIMITS
THE COMMISSION'S OPTIONS IN THIS DOCKET, BUT THE
COMMISSION STILL MUST DO WHAT IT CAN TO INCREASE
COMPETITION AND CUSTOMER CHOICE IN THAT ENVIRONMENT.

The presence of loop-through wiring in MDUs limits the Commission's options to increase competition among multichannel video service providers and customer choice with respect to that service. Unlike the situation in a detached, single family dwelling that typically is served by cable home wire dedicated to the particular dwelling, a loop-through configuration serves all of the subscribers in the MDU with a single "bus" wire. Currently, loop-through wire is indivisible by nature and therefore cannot be apportioned among the various subscribers served by that single wire.⁴ And it is difficult to identify a reasoned basis on which to conclude that any one particular subscriber served by a loop-through configuration should have the right to purchase the entire wire when voluntarily terminating service.

But to say that loop-through wiring cannot be apportioned among subscribers in a MDU and cannot be purchased by a single subscriber in the

⁴ As a result, it is difficult to imagine how the Commission could apportion loop-through wire among individual subscribers in a MDU building so as to ensure that the subscribers have a choice of multichannel video programming over that common wire. See Further NPRM at par. 40.

MDU who voluntarily terminates service is not to say that the Commission cannot institute some semblance of balance between the cable operator on the one hand, and the subscribers on the other. The owner of a MDU, in concert with the MDU tenants,⁵ or a MDU condominium association should be able to exercise the same rights with respect to the loop-through wire as a subscriber in a detached, single family dwelling exercises with respect to cable home wire. The demarcation point should be the same and the compensation should be the same (i.e. per-foot replacement cost). In short: the communal aspect of MDU living necessarily means that resident-subscribers in MDU buildings will not have all of the same prerogatives with respect to loop-through wire which are enjoyed by a subscriber in a detached single family dwelling served by a dedicated wire, but that does not mean loop-through MDU residents -- via the building owner or resident association -- should not have any of those prerogatives which the Commission conferred with the specific purpose of increasing competition among multichannel video service providers and customer choice with respect to that service.

⁵ The Commission should not require that all or any particular number of subscribers in the MDU building must want to switch to a new service provider before the owner of a MDU is allowed to purchase the loop-through wire. See NPRM at par. 40. That should be a matter to be worked out by the MDU building owner and the subscribers in the building.

The Commission expressed some concern that if owners of MDUs with loop-through wiring are allowed to purchase the common wire, then the building owner would be in a position to exercise control over the wire in a way that may supersede subscribers' wishes.⁶ That possibility exists. But that possibility exists today given the cable operator's control over the wire. The question with respect to loop-through wiring the Commission must answer is this: as between the building owner and the cable operator, which has the greater incentive to exercise control over loop-through wiring in a manner that best represents the wishes of the subscribers? Ameritech New Media believes the MDU building owner is in a better position to do so because the multichannel video service carried over that wire is only incidental to the main business relationship, i.e. occupancy, which exists between the building owner and the tenant. The incumbent cable provider, on the other hand, may want to exercise control over the loop-through wiring in a manner that serves the subscribers' interest only if the incumbent continues to be the provider of cable service to the building, that being the cable operator's only business relationship with the subscriber.

⁶ Further NPRM at par. 40. If the MDU owner is the subscriber to the cable service and includes the cost of that service in the rent charged to the tenant, then the owner should be able to exercise the same option to purchase the loop-through wiring as a detached, single family dwelling owner has today under the Commission's rules. The same rule should apply in those limited situations where the MDU owner subscribes to the basic cable package which then comes with the unit, and then individual tenants subscribe to premium packages directly with the cable operator.

In addition, however, the Commission must make it absolutely clear that even in the case of a MDU with loop-through wiring, individual subscribers still have the right to obtain their cable service from another provider willing dedicate a wire to the subscribers' particular unit. After all, Congress sought in the Telecommunications Act of 1996 to provide subscribers with greater choice among video service providers. Subscribers living in MDU buildings with loop-through wiring may have limited options with respect to the common and indivisible "bus" which loops-through the building, but they should continue to be able to subscribe to a different cable provider willing to offer service with a separate, non-loop-through cable. The Commission's order in this docket should provide for such access as a way to foster competition and customer choice.

Given the obvious competitive shortcomings of loop-through wiring, the Commission asks whether it should prohibit future installations of loop-through configurations.⁷ Ameritech New Media says "yes." Advanced telecommunication services likely will be provided on an individual subscriber basis. This will be difficult if not impossible to do over loop-through wiring that is common to multiple subscribers. As a result, many cable operators no longer utilize a loop-through configuration. For this reason, and because loop-through wiring limits the opportunity for increased

⁷ Further NPRM at par. 40.

competition among multichannel video service providers, future installation of loop-through wiring should be prohibited.

II.

OTHERS, BESIDES THE SUBSCRIBER AND CABLE OPERATOR, SHOULD BE ABLE TO EXERCISE RIGHTS WITH RESPECT TO CABLE HOME WIRING.

Currently, only subscribers and cable operators have rights with respect to cable home wiring. That should change. As discussed above, if the owner or tenant association of a MDU with loop-through wiring voluntarily terminates cable service for the entire building, then either should have the right to purchase the common wire. This change is necessary to promote competition among multichannel video service providers and customer choice with respect to that service.

On a related note, the Commission asks what the rule should be in those cases where a subscriber voluntarily terminates cable service, declines the option to purchase the cable home wire and then vacates the premises within the seven business days the cable operator has to remove the wire.⁸ Ameritech New Media agrees with the Commission “that, as long as the cable operator has been allowed access to the premises to remove its wiring if it so wishes, whether the subscriber vacates the premises has no bearing on the

⁸ Further NPRM at par. 40.

application of our [the Commission's] rules"⁹ And under those circumstances, if the subscriber declines to purchase the cable home wire, the premises owner should be given the option to make that purchase. This will promote competition and customer choice.

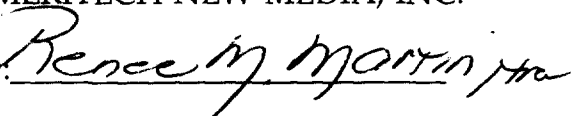
IV.

CONCLUSION

Ameritech New Media recommends that the Commission make the changes to its rules identified in these comments which will have the effect of increasing competition among broadband video service providers and customer choice with respect to that service.

Respectfully submitted,

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⁹ Further NPRM at par. 40.